

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

TIMMIE RAY ROGERS, §
(TDCJ-CID #01624189) §
Petitioner, §
§
vs. § CIVIL ACTION H-11-1575
§
RICK THALER, §
Respondent. §

ORDER

On May 23, 2011, this court granted Rogers leave to proceed as a pauper. (Docket Entry No. 7). On June 21, 2011, Rogers paid the \$5.00 filing fee. On June 5, 2012, this court granted the respondent's motion for summary judgment and denied Rogers's federal petition for a writ of habeas corpus. (Docket Entry No. 55).

Rogers now seeks reimbursement of the appellate filing fee. (Docket Entry Nos. 67 & 68). Rule 24 of the Federal Rules of Appellate Procedure provides, in relevant part, as follows:

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or

(B) a statute provides otherwise.

FED. R. APP. P. 24 (3)(A) & (B).

This court previously granted Rogers leave to proceed as a pauper. (Docket Entry No. 7).

This court has not previously certified that the appeal was not taken in good faith. Under Rule 24(3) of the Federal Rules of Appellate Procedure, Rogers is allowed to proceed as a pauper on appeal without further authorization. Rogers's motions for reimbursement, (Docket Entry Nos. 67 & 68), are granted. The Clerk is directed to refund the full amount of the appellate filing fee, \$455.00, to the inmate account of Timmie Ray Rogers, Inmate Number #01624189.

The Clerk of Court will send a copy of this Order to the TDCJ-CID Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629.

SIGNED on May 7, 2013, at Houston, Texas.



Lee H. Rosenthal
United States District Judge